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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,919	11/03/2003	Stephen Bowling		3897

7590

08/04/2006

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,919

Applicant(s)

BOWLING, STEPHEN

Examiner

Vishu K. Mendiratta

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claims 21,35,43 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The structure of the kit is unclear with respect to the structure of "a rule indicator", "information indicator", "indicia that indicate". There is also no support for these limitations in the specification. There is no correspondence between claimed limitations and disclosure.

Claimed kit has no clear structure and correspondence within claimed limitations, for example how is the "information indicator" connected to any other parts in the kit and what/where is this indicia? and related to any of other parts in the kit.

Claim Rejections - 35 USC § 102

2. Claims 35- 40,42 rejected under 35 U.S.C. 102(b) as being anticipated by Gohlke (5372366).

Gohlke teaches a plurality of billiard balls (billiard balls are fracture resistant as known) with rankings on them (28), a plurality of cards (indicators) with rankings (abstract lines 1-5). Claimed limitations are rules for playing and do not further limit the game kit.

Additionally the only difference between applicant's claims and the Gohlke reference resides in meaning and information conveyed by the printed matter not considered patentable.

Claim Rejections - 35 USC § 103

3. Claims 21-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Gohlke (5372366) in view of Chavarria (4116439).

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Claims 21-26: Gohlke teaches a plurality of billiard balls (billiard balls are fracture resistant as known) with rankings on them (28), a plurality of cards (indicators) with rankings (abstract lines 1-5), moving pieces (19) with flat bases and a random number generator (18). The cue ball is bigger than all other balls in a pool game.

Gohlke teaches all limitations except that it does not teach spheres with figures visible in them. Chavarria teaches providing balls with figures inside (Fig.10).

Providing spheres with figures within is a design/aesthetic choice. In order to make the game attractive to potential players, it would have been obvious to provide spheres with figures inside them. Further spheres used in a game where they constantly strike each other are likely to erode the outside surface and any information on them. In order to secure information, it would have been obvious to provide spheres with information inside.

4. Claims 27-44 rejected under 35 U.S.C. 103(a) as being unpatentable over Gohlke (5372366) in view of Chavarria (4116439).

Claims 27-34,41-44: Gohlke teaches a plurality of billiard balls (billiard balls are fracture resistant as known) with rankings on them (28), a plurality of cards (indicators) with rankings (abstract lines 1-5), moving pieces (19) with flat bases and a random number generator (18), physically striking one spherical ball with another spherical ball as in pool game (6:7) and using dice for determining outcome (6:55-57). Limitations in claims 31-34 are inherent in playing pool game.

Gohlke teaches all limitations except that it does not teach spheres with figures visible in them. Chavarria teaches providing balls with figures inside (Fig.10).

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Providing spheres with figures within is a design/aesthetic choice. In order to make the game attractive to potential players, it would have been obvious to provide spheres with figures inside them. Further spheres used in a game where they constantly strike each other are likely to erode the outside surface and any information on them. In order to secure information, it would have been obvious to provide spheres with information inside.

Claim 35: Limitation "rule indicator" has no definite structure and has no patentable weight as apparatus.

Claims 36-40: Claim limitations are rules for playing or intended use of apparatus not furthering the apparatus in the claims.

Response to Arguments

5. Applicant's arguments with respect to claims 27-44 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Vishu K Mendiratta
Primary Examiner
Art Unit 3711

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VKM'

July 31, 2006

A handwritten signature in black ink, consisting of a stylized 'G' followed by a checkmark-like stroke.